

### Michigan Indigent Defense Commission

Standard 2 Best Practices Training December 10, 2021

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Initial Interview and Gathering Client Information

## Objectives for Today's Training

- Solidify your knowledge of the initial interview guidelines
- ✓ Learn how to effectively gather client information
- ✓ Understand how to use the information you gather

Purpose of Standard	2
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## **Common Client Misperceptions**

- UGH! I'm stuck with a COURT APPOINTED LAWYER!!!
- You aren't actually working for them, but you are instead part of "the system"
- You don't care about them
- You would work harder for them if they were paying you



### MIDC Standard 2: Initial Interview

- M.C.L. 780.991(2)(a)
- ABA "Ten Principles"
- U.S. v. Morris, 470 F.3d 596 (CA 6, 2006)



# **TIMING**



- Initial Interview should be conducted as soon as possible after assignment of the case, and subsequent interviews should be conducted as needed.
- Incarcerated clients should be seen within 3 business days of assignment.
- When a client is not in custody, counsel shall promptly deliver an introductory communication so the client may follow-up and schedule a meeting.

# **SETTING**

- Private
- Confidential

"defense lawyers have an important role to play in identifying where confidential interview spaces are necessary and advocating for change. Defense lawyers should not accept a status quo that prevents them from maintaining confidentiality." MIDC White Paper, p.3



### **PREPARATION**

Counsel shall obtain copies of any relevant documents which are available, including copies of any charging documents, recommendations and reports concerning pretrial release, and discoverable material.

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Participation in Representation

- Evaluate
- Continue to evaluate
- Take action where appropriate

# CLIENT STATUS LANGUAGE DIFFERENCES

Unable to communicate because of language differences?



# THE CASE



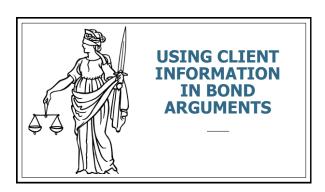
State Bar of Michigan Interview Model

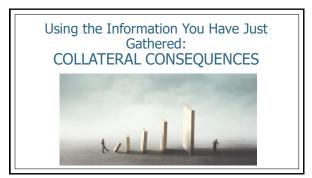
# **PUBLIC BENEFITS**



State Bar of Michigan Interview Model DRIVER'S LICENSE











# **IMMIGRATION**

Padilla v Kentucky, 559 U.S. 356 (2010)



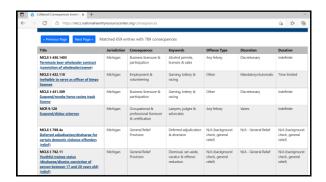
## **IMMIGRATION**

Important Questions to Ask Your Client

IMPORTANT!!

Even certain misdemeanor convictions can result in automatic deportation for noncitizen clients.





# CHILD CUSTODY CASES







# HOLISTIC REPRESENTATION

## Communication is Ongoing

"other confidential client interviews are expected", MIDC White Paper p.2, "and sufficiently before any subsequent court proceeding", MIDC White Paper p.2, MIDC Standard 2.A



"Effective representation also requires frequent and frank communication between the attorney and the client." MIDC White Paper p.2, Jonathan A. Rapping, You Can't Build on Shaky Ground: Laying the Foundation for Indigent Defense Reform Through Values-Based Recruitment, Training and Mentoring, 3 Harv. L. Pol'y Rev. 161, 165 (2009).

